



HUMAN RIGHTS PERSPECTIVE IN INDIAN

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Human Rights, intrinsic to all humans as members of humanity, are the modern and secular versions of the natural rights. All humans, being born equal are equally entitled to the Human Rights without any distinction of birth, sex, race, status, religion, language or nationality. Standing above the ideologies of the capitalism or communism, Human Rights reflect the concern for democracy, development and peace.

Adoption of the Universal Declaration of Human Rights by the United Nations on December 10, 1948 gave a global thrust to the Human Rights. Rane Cassin, the distinguished French Jurist who drafted United Nations Declaration of Human Rights (UNDHR) was awarded the Nobel Peace Prize in 1968 for his works on Human Rights. The United Nations Declaration of Human Rights, the two Covenants- the International Covenant on Civil and Political Rights

(ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Conventions taken together are known as the International Bill of Rights. All of them have been ratified by India. Also as a founder member of the United Nations Organizations, India is a party to the Universal Declaration of Human Rights, 1948. Coming close to the heels of the Universal Declaration of Human Rights, the Bill of Rights was enunciated in the Constitution of India, 1950 by the founding fathers, with the contemporary development, humanitarian temper and constitutional practices. Among the constitutional provisions, the chapter on Fundamental Rights has a vital significance especially in view of the problems of minorities in India. The preambular assurance of the dignity of the individuals more eloquently proclaimed by the extensive ideas of economic and social justice, which in fact, happens to be the cardinal principles underlying the Universal Declaration of Human Rights and it is sought to be implemented through the various provisions of Part III-Fundamental Rights and Part IV-Directive Principles of State Policy of the Constitution of India.

The national awakening and social reform movements were for the equality, democracy and social progress. During the freedom movement, the people of India fought against colonial rule for their rights and liberties. The Indian National Congress at its Madras session in December 1927, resolved to draft a "Swaraj Constitution for India, on the basis of the Declaration of Rights". In pursuance, the Motilal Nehru Committee, in its report in August 1928, set out 19 Fundamental Rights and reiterated that "Our first case should be to have our Fundamental Rights guaranteed in a manner which will not permit their withdrawal

under any circumstance." The Cabinet Mission Plan conceded the demand for the Constituent Assembly as well as the need for a written guarantee of Fundamental Rights in the Constitution of India. The Objective Resolution moved by Jawaharlal Nehru was adopted by the Constituent Assembly on January 22, 1947. It was solemnly pledged to draw up a constitution for India's future governance and it "shall be guaranteed secured to all the people of India, justice-social, economic and political, equality of status, of opportunity and before the law, freedoms of thought, expression, belief, faith, worship, vocation, association and action, subject to law and public morality". Two days after adopting the Objective Resolution, the Constituent Assembly elected an Advisory Committee consisting of 54 members with Sardar Vallabhbhai Patel as its Chairman. The Advisory Committee in turn with the help of its five Sub Committees recommended for the division of rights into justiciable and non-justiciable, that is, the rights enforceable by appropriate legal process and the rights not enforceable through courts nevertheless to be fundamental in the governance of the nation. By the time the Constituent Assembly adopted these recommendations and drafted the Constitution of India, 1950, the Universal Declaration of Human Rights, 1948, had already been proclaimed with the hope that ultimately nations will embody these human rights in their constitutional documents.

Consequently the Constitution of India, 1950 set out a most elaborate declaration of Human Rights. These rights were, broadly divided into two compartments (i) political and civil rights, and (ii) social and economic rights, that were contained in Chapter III enumerating the Fundamental Rights and Chapter IV dealing with the Directive Principles of State Policy. The former are justiciable while the latter are non-justiciable. Insertion of a new chapter IVA on Fundamental Duties, having corresponding relations with the Fundamental Rights through the 42nd Constitution Amendment Act, 1976, was an addition to the non justiciable slot. There are some more constitutional rights scattered under articles or are inferred from the constitutional limitations on the government powers. Such as Article 265 lays down that "No tax shall be levied or collected except by authority of law", which implies that, a person has a right not to be taxed except under a law.

A comparison between the United Nations Declaration of Human Rights 1948 with the Fundamental Rights and a comparison between International Covenant on Economic, Social, and Cultural Rights with the Directive Principles of State Policy respectively are presented hereto in tabular form:

A COMPARATIVE STUDY OF FUNDAMENTAL RIGHTS AND UNIVERSAL DECLARATION OF HUMAN RIGHTS

FUNDAMENTAL RIGHTS IN INDIAN CONSTITUTION	UNIVERSAL DECLARATION OF HUMAN RIGHTS-1948
Art. 14: The state shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.	Art. 7: All are equal before the Law and are entitled without any discrimination in violation of this declaration and against any incitement to such discrimination
Art.15(1): The State shall not discriminate against any citizen on the grounds only of religion, race, caste, sex, place, or any of them.	Art. 2- Para (I): Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political, or other opinion national or social origin, property, birth or other status.
Art.16(1): There shall be equality of opportunity for all citizens in the matters relating to employment or appointment to any office under the state.	Article 7-Sentence 2: (Equality Before Law)-All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination
Art. 19(1): All citizens have the a) Right to Freedom of Speech and expression. b) Right to assemble peacefully and without arms. c) Right to form unions and associations. d) Right to move freely throughout the territory of India. e) Right to reside and settle in any part of the territory of India	Art. 21(2): Everyone has a right to equal access to public service in his country. Art. 19: Everyone has the right to freedom of opinion and expression Art. 20(1): Everyone has the right to freedom of peaceful assembly and association. Art. 23(4): Everyone has the right to form and to join trade unions for the protection of his rights. Art. 13(1): Everyone has the right to freedom of movement and residence within the borders of each state.

FUNDAMENTAL RIGHTS IN INDIAN CONSTITUTION	UNIVERSAL DECLARATION OF HUMAN RIGHTS-1948
<p>Art.20(1): No person shall be convicted of any offence except for a violation of law in force at the time of commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.</p> <p>Art.21: No person shall be deprived of his life or personal liberty except according to procedure established by law.</p> <p>Art.23(1): Traffic in human being 'Beggar' and other similar forms of forced labor are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.</p> <p>Art.25(1): Subject to public order, morality and health and to the provisions of this part, all persons are equally entitled to freedom of conscience and right freely to profess practice and propagate religion.</p>	<p>Art. 11(2): No one shall be held guilty of any penal offence on account of any act or commission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor a heavier penalty is imposed when the one that was applicable at the time the penal offence was committed.</p> <p>Art. 3: Everyone has the right to life, liberty and security of person.</p> <p>Art. 9: No one shall be subjected to arbitrary arrest, detention or exile.</p> <p>Art. 4: No one shall be held in slavery or servitude and the slave trade shall be prohibited in all forms.</p> <p>Art. 18: Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public, private, to manifest his religious belief in teaching, practice, worship and observance.</p>

These comparisons bear the testimony to the fact that there are many similarities in contents and form between two. As Fundamental Rights substantially cover almost all the civil and political rights enumerated in Article 2 to 21 of the Declaration of Human Rights, and hence can truly be designated as Fundamental Human Rights of India. The impact of the Universal Declaration of Human Rights on the drafting and development of the Constitution of India is seen and felt throughout. Though the framers of the Constitution would have been influenced by the British legal heritage and American constitutional traditions, the impact of the United Nations Declaration of Human Rights had also been there due to its contemporaneous character.

The Government of India has acceded to the Universal Declaration of Human Rights as well as to the International Covenant of Economic, Social and Cultural Rights and also to the International Covenants on Civil and Political Rights and deposited its document of accession in the United Nations, by a declaration dated April 10, 1979 with certain reservations. The role of the Supreme Court of India is indeed commendable in protecting, enforcing and expanding the scope of human rights through its various judicial. The Supreme Court has found Article 21 as most fruitful. In the comprehension of Supreme Court, the right to life and liberty includes right to human dignity especially to women, right to privacy, right to know, right to education, right to protection of health, medical care and environment.